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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,099	02/17/2004	Lee Willis	9425a	9890
21905	7590	10/28/2004	EXAMINER	
CONNORS ASSOCIATES 1600 DOVE ST SUITE 220 NEWPORT BEACH, CA 92660			COHEN, AMY R	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/780,099

Applicant(s)

WILLIS ET AL.

Examiner

Amy R Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/25/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "P1" has been used to designate both the port and the perimeter (See Figs. 3 and 3A). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to because "S1" and "S2" appear as "51" and "52" in Figure 3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement

Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

3. The disclosure is objected to because of the following informalities:

Page 8, line 23 “24” should read 42.

Page 9, line 15 as stated above in the drawing objections “P1” has been used to designate the port and the perimeter.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, 5, 14-17, 46, 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Willis et al. (U. S. Patent No. 5,582,127).

Willis et al. teaches a rescue device (10) that marks a location, comprising a deflated kite-type balloon (40) having a self-sealing inflation port (40a), an inflator valve (28) in communication with the self-sealing inflation port of the deflated balloon (Col 3, lines 14-25), and a container (18) which holds a pressurized, lighter than air gas (Col 2, lines 61-63), said

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container having an outlet port (18a) in communication with the inflator valve, said inflator valve upon being opened causing the lighter than air gas to enter the deflated balloon to inflate the balloon (Col 3, lines 7-25).

Willis et al. teaches the rescue device where the balloon includes a tail (Fig. 4).

Willis et al. teaches the rescue device where the hollow body has a central longitudinal axis and the balloon is substantially symmetrical about said axis (Fig. 4).

Willis et al. teaches the rescue device including a line (48) adapted to secure the balloon at the location and a housing (12) with the deflated balloon in said housing in a predetermined compact position (Fig. 2 and Col 3, lines 14-47).

Willis et al. teaches the rescue device said balloon has opposed faces, opposed lateral sides, opposed ends, and a longitudinal axis extending between said opposed ends, said inflation port being nearby one of said ends of the balloon, each of said lateral sides being rolled inward against one of said faces and towards the longitudinal axis so that said balloon is a partially rolled balloon, which is then rolled inward from the end opposed to the inflation port, towards the inflation port, into said predetermined compact condition (Figs. 4-8 and Col 3, lines 26-47).

Willis et al. teaches the rescue device including a detachable cover (24) member closing an open end of the housing and a valve actuator (26) connected to the cover member so that, upon removal of the cover member from the open end of the housing, the valve actuator opens the inflator valve causing the lighter than air gas to enter the compacted balloon to inflate the balloon, which exits the open end of the housing solely under the influence of a pressurized gas (Col 3, lines 1-13 and lines 48-67).

Willis et al. teaches the rescue device where the housing encloses the container, the inflator valve, and the compacted balloon (Fig. 2).

Willis et al. teaches a method of marking an individual's location to facilitate rescue even under windy weather conditions, comprising providing (a) a source of lighter than air gas (Col 2, lines 61-63), (b) a deflated kite-type balloon (40) having a self-sealing inflation port (40a) adapted to be placed in communication with the source of lighter than air gas to inflate the kite-type balloon, and (c) a line (48) adapted to secure the balloon at the location, and when rescue is desired, inflating the deflated kite-type balloon with said gas from said source and releasing the inflated kite-type balloon with the line secured to the balloon and at or near said location (Col 4, lines 1-22).

Willis et al. teaches the method where at least a portion of the kite-type balloon is radar reflective (Col 3, lines 38-47).

6. Claims 30-32, 34-37, 39-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Haas (U. S. Patent No. 2,486,158).

Haas teaches a kite-type balloon (80) comprising a hollow body (83, 84) adapted to be filled with the gas upon inflation of the balloon, and a sail element (80a) connected to the hollow body (Figs. 8 and 9).

Haas teaches the kite-type balloon where said balloon has a substantially triangular configuration (Fig. 8).

Haas teaches the kite-type balloon wherein the balloon includes a tail (89, Fig. 8).

Haas teaches the kite-type balloon where body has opposed lateral sides and a sail element is attached to each lateral side (Fig. 8).

Haas teaches the kite-type balloon where the hollow body has a central longitudinal axis and the balloon is substantially symmetrical about said axis (Fig. 8).

Haas teaches a kite-type balloon (80) comprising a hollow body (83, 84) with a head end (86), a tail end (89), and opposed outwardly extending arms (84), said hollow body adapted to be filled with the gas upon inflation of the balloon (Col 5, lines 6-22), and a pair of sail elements (80a) connected to the hollow body, one sail element extending between one arm and the tail end and the other sail element extending between the other arm and the tail end (Fig. 8).

Haas teaches the kite-type balloon including a tail (89) attached to the tail end of the hollow body and the hollow body has central longitudinal axis extending between the head end and the tail end and the balloon is substantially symmetrical about said axis (Fig. 8).

Haas teaches the kite-type balloon where said balloon has a substantially triangular configuration (Fig. 8).

Haas teaches the kite-type balloon where the sail elements each have a substantially triangular configuration (Fig. 8).

Haas teaches a kite-type balloon (80) comprising a hollow inflatable body having a substantially cross configuration including a pair of opposed arms (84) intersecting a beam element (83), and a pair of sail elements (80a), each sail element connected to one arm and to a side of the beam element (Fig. 8).

Haas teaches the kite-type balloon where each sail element has a substantially triangular configuration (Fig. 8).

Haas teaches the kite-type balloon where the beam element has a longitudinal axis and the balloon is substantially symmetrical about said axis (Fig. 8).

Haas teaches the kite-type balloon including a tail (89) attached to an end of the inflatable body and where each arm has an outer end and the beam element has a head end (86) and a tail end (89), and each sail element has an outer edge tapering inward to terminate at or near the tail end (Fig. 8).

Haas teaches the kite-type balloon including a first connector line that extends between the opposed outer ends of the arms, and a second connector line that extends between the head end and an intermediate portion of the first connector line (Fig. 8, Col 5, lines 23-34 and Col 4, lines 1-20).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 3, 6-13, 18-29, 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willis et al. in view of Haas.

Willis et al. discloses the rescue device as described above in paragraph 5; wherein the balloon comprises a central hollow body with opposed sides, said hollow body being filled with the gas upon inflation of the balloon (Col 4, lines 1-22); where the self-sealing inflation port is near said tail end (Col 3, lines 14-25); wherein the connector line extends outward from the compacted balloon (Fig. 2); said tail is folded inward lengthwise towards said head end substantially along the longitudinal axis and each of said lateral sides is rolled inward against one



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of said faces and towards the longitudinal axis so that said balloon is a partially rolled balloon, which is then rolled inward from the end opposite the inflation port towards said one end including the inflation port, into said predetermined compact condition (Figs. 5-8 and Col 3, lines 26-47), a portion of the secured line that extends from the end connected to the intermediate portion of the first connector line is positioned to lie substantially along or nearby the longitudinal axis and to extend outward from the compacted balloon from said one end including the inflation port (Figs. 2, 5-8 and Col 3, lines 14-47); wherein the tail has a length that when folded inward does not intersect with the connector line (Figs. 2, 6, and 8).

Willis et al. does not disclose the rescue device comprising a pair of sail elements, one sail element attached to one opposed side and the other element attached to the other opposed side; where the balloon has a substantially triangular configuration; where the balloon comprises a hollow body with a head end, a tail end, and opposed outwardly extending arms, wherein one sail element extends between one arm and the tail end and the other sail elements extends between the other arm and the tail end; where each arm has an outer end and a first connector line extends between said outer ends and a second connector line extends between the head end and an intermediate portion of the first connector line; including a third line adapted to secure the balloon at a location, said third line including an end connected to an intermediate portion of the first connector line; where the sail elements each have a substantially triangular configuration.

Haas discloses a rescue device (80) comprising a pair of sail elements (80a), one sail element attached to one opposed side and the other element attached to the other opposed side (Fig. 8); where the balloon has a substantially triangular configuration (Fig. 8); where the balloon (80) comprises a hollow body (83, 84) with a head end (86), a tail end (89), and opposed

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outwardly extending arms (84), wherein one sail element extends between one arm and the tail end and the other sail elements extends between the other arm and the tail end (Fig. 8); where each arm has an outer end and a first connector line extends between said outer ends and a second connector line extends between the head end and an intermediate portion of the first connector line (Fig. 8, Col 5, lines 23-34 and Col 4, lines 1-20); including a third line adapted to secure the balloon at a location, said third line including an end connected to an intermediate portion of the first connector line (Fig. 8, Col 5, lines 23-34 and Col 4, lines 1-20); where the sail elements each have a substantially triangular configuration (Fig. 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the rescue device of Willis et al. to include a balloon with the configuration having outwardly extending arms and sail elements, as taught by Haas, since Willis et al. discloses that alternate embodiments may be preferred (Willis et al. Col 4, lines 25-38) and since a triangular shaped device may be more efficient in flight.

Regarding claim 12: Willis et al. and Haas disclose the self-sealing inflation port near the tail end of the balloon. Changing the location of the self-sealing inflation port from the location shown by Willis et al. and Haas to a location on near the head end, absent any criticality, is only considered to be an obvious modification of the Willis et al. and Haas device that a person having ordinary skill in the art at the time the invention was made would be able to provide using routine experimentation since the courts have held that there is no invention in shifting the position if the operation of the device would not be thereby modified. *In re Japikse*, 86 USPQ 70 (CCPA 1950). Therefore, it would have been obvious to one of ordinary skill in the art at the

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time the invention was made to modify the balloon to have the self-sealing inflation port at the head end In order to separate the location of the self-sealing inflation port and the secure line.

9. Claims 33 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haas in view of Willis et al.

Haas discloses the kite-type balloon as described above in paragraph 6.

Haas does not disclose the kite-type balloon wherein at least a portion of the balloon is radar reflective.

Willis et al. discloses a balloon wherein at least a portion of the balloon is radar reflective (Col 3, lines 39-47).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the balloon of Haas to be of at least a portion of radar reflective material, as taught by Willis et al., so that if the user is stranded at night, a radar could be used to locate the user (Willis. Et al. Col 3, lines 39-47).

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose rescue devices Aguiar (U. S. Patent No. 6,244,209), Staten et al. (U. S. Patent No. 5,555,839), Hull et al. (U. S. Patent No. 5,245,943), and Schnee (U. S. Patent No. 4,768,739).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC  
October 25, 2004



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